

Date: August 13, 2009

Division of Global Migration and Quarantine  
Centers for Disease Control and Prevention  
U.S. Department of Health and Human Services  
Attn: Part 34 NPRM Comments,  
1600 Clifton Road, N.E., MS E-08  
Atlanta, GA 30333

Also may be submitted electronically: <http://regulations.gov> or email:  
Part34HIVcomments@cdc.gov

Docket ID: CDC-2008-0001

Docket Title: Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance

RIN: 0920-AA26

I am writing to support the proposed rule that would lift the ban on visitors and immigrants living with HIV from entering the United States, stop unfair mandatory HIV testing of immigrants and remove references to HIV from the scope of examinations in its regulations. This ban, enacted in the 1986 in response to the hysteria about HIV, is unwarranted, not scientifically based, and only further promotes stigma and discrimination of persons living with HIV.

I find the ban on persons living with HIV from entering the United States personally offensive and discriminatory to all persons living with HIV. I respectfully submit these comments on the proposed rule by the U.S. Department of Health and Human Services to revise the Part 34 regulation to remove “Human Immunodeficiency Virus” (HIV) infection from the definition of “communicable diseases of public health significance” and to remove references to “HIV” from the scope of examinations in its regulations.

My rational for supporting this regulation is as follows:

1. There is no scientific or public health justification for HIV-related restrictions on entry, stay, and residence.

According to the U.S. government’s own agencies, HIV is transmitted through bodily fluids, is not airborne and is not transmitted through casual contact. Public health officials within the United States have acknowledged that there is no public health justification for excluding people with HIV. As the CDC itself has stated: “The risk of (or protection from) HIV infection comes not from the nationality of the infected person, but from the

specific behaviors that are practiced. Again, a careful consideration of epidemiological principles and current medical knowledge leads us to believe that allowing HIV-infected aliens into this country will not impose a significant additional risk of HIV infection to the U.S. population, where prevalence of HIV is already widespread.”[1]

## 2. The ban encourages persons traveling to United States to Skip Taking Medication

The HIV-specific entry and immigration restrictions have pressured some people to conceal their HIV status from U.S. immigration authorities by not bringing HIV medicines with them on international trips, resulting in individuals skipping doses. This puts the person at risk for developing strains of HIV resistant to medications. This is both a public health risk and a risk to the individual’s own health. Repealing this ban will allow HIV-positive travelers to continue their medication uninterrupted.

## 3. Restrictions on entry, stay and residence based on HIV status are discriminatory, promote stigma and violate human rights

The current policy promotes discrimination against HIV-infected immigrants and causes many immigrants to avoid HIV testing or treatment for fear of deportation and stigma. Support for this ban, initiated in the 1980s, can also be attributed to discrimination against the groups that were perceived to be most likely to catch HIV, such as homosexuals. This ban merely reinforced negative stereotypes and amounted to legalized discrimination.

The current policy prevents or hinders people living with HIV from entering the United States and participating in critical meetings that shape global HIV policy and research. Because of this policy, important public health meetings and HIV conferences such as those hosted by the International AIDS Society have not been held in the United States since 1990.

The United Nations International Guidelines on HIV/AIDS and Human Rights state that any restriction on liberty of movement or choice of residence based on suspected or real HIV status alone, including HIV screening of international travelers, is discriminatory. The ban also forces immigrants living with HIV underground and encourages individuals to hide their HIV status. The implementation of HIV-related restrictions on entry, stay, and residence can also interfere with the rights to life, privacy, liberty, work and as CDC mentions even within their own justification for this rule, the right to protect the unity of the family.

## 4. The costs to the United States taxpayer would not be as high as suggested in the proposed rule and demonstrates the discriminatory approach of the ban.

While I fully support the proposed rule, concerns have been raised about the presentation of the cost estimate model. First, this estimate does not explicitly differentiate costs between public and private payers. All immigrants to the United States must document that they will not be a public charge. Second, the CDC acknowledges that people with

HIV may consume fewer health care resources than immigrants with other conditions. The cost model also raises the inherently unequal and unfair approach in U.S. immigration policy – while the costs of treating HIV are raised as a concern, the costs of treating the diseases of other immigrants are not considered relevant in determining their entry into the United States. The costs of treating immigrants with other significant health concerns, e.g., heart disease, renal disease, diabetes, are not considered in determining immigration policy for individuals with these conditions and should not be a factor in setting immigration policy for people with HIV.

##### 5. The ban amounts to mandatory testing for HIV

Finally, it is important to remove HIV testing from the routine medical examination of lawful permanent resident applicants. The ban amounted to mandatory testing of all immigrants for HIV. There are clear and important benefits to be accrued from HIV testing, but testing should not be mandated as part of the routine medical examination for entry into the United States. People living with HIV should be allowed to enter the U.S. or adjust to permanent resident status if they meet all other conditions of admissibility.

For these reasons, I fully support the removal of HIV from the definition of “communicable diseases of public health significance” as well as to remove references to “HIV” from the scope of examinations in its regulations.

Thank you for issuing this proposed regulation.

Sincerely,

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

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